

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

MICHAEL MCINTOSH,

Plaintiff,

vs.

CHRISTOPHER LINDSEY, et al.,

Defendants.

Case No. 16-CV-927-SMY-RJD

MEMORANDUM AND ORDER

Plaintiff Michael McIntosh filed an Amended Complaint, alleging that officials at Menard Correctional Center failed to protect him from a known risk of assault by his cellmate, and that related grievances were ignored or delayed on the basis of his race, in violation of the Equal Protection Clause. (Doc. 9). This matter is now before the Court on the Report and Recommendation (R&R) of United States Magistrate Judge Reona J. Daly (Doc. 45) recommending that the Motion for Summary Judgment on the Issue of Exhaustion of Administrative Remedies filed by Defendants Christopher Lindsey, Regina Price, and Tracy Heiman (Doc. 25) be granted in part and denied in part. No objections to the R&R have been filed. *See* 28 U.S.C. § 636(b)(1); FED. R. CIV. P. 72(b)(2); SDIL-LR 73.1(b). For the following reasons, the Report and Recommendation of Magistrate Judge Daly is **ADOPTED** in its entirety.

Where neither timely nor specific objections to the Report and Recommendation are made, this Court need not conduct a *de novo* review of the Report and Recommendation. *See Thomas v. Arn*, 474 U.S. 140 (1985). Instead, the Court should review the Report and Recommendation for clear error. *Johnson v. Zema Systems Corp.*, 170 F.3d 734, 739 (7th Cir. 1999). A judge may then “accept, reject, or modify, in whole or in part, the findings or

recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1).

Here, Judge Daly thoroughly discussed and supported her conclusion that Defendants Lindsey and Heiman had not met their burden on summary judgment, as there remains a genuine issue of material fact as to whether Plaintiff’s April 20, 2016 grievance (pertaining to Lindsey and Heiman’s conduct) was properly filed with Menard staff. Similarly, Judge Daly’s conclusion that no grievance had been filed with regard to Defendant Price’s alleged conduct is fully discussed and supported. The Court agrees with Judge Daly’s findings, analysis and conclusions and **ADOPTS** her Report and Recommendation in full. Defendants’ Motion for Summary Judgment based on Plaintiff’s Failure to Exhaust Administrative Remedies (Doc. 29) is **GRANTED IN PART** and **DENIED IN PART**. Defendant Regina Price is **DISMISSED** without prejudice.

IT IS SO ORDERED.

DATED: May 25, 2018

s/ Staci M. Yandle
STACI M. YANDLE
United States District Judge